

1 GARY A LEDFORD - Intervening Party  
Complainant and Petitioner  
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4 IN PRO PER  
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8 **STATE OF CALIFORNIA**  
9 **ENERGY RESOURCES AND DEVELOPMENT COMMISSSION**

10  
11 GARY A LEDFORD – Party In Intervention  
12 Complainant,

13 vs.

14  
15 HIGH DESERT POWER PROJECT  
16 97 – AFC - 1

17 AND

18 THE CALIFORNIA ENERGY COMMISSION  
19 Respondents.  
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23  
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) DOCKET NO: \_\_\_\_\_

) **COMPLAINT CCR TITLE 20**  
) **SECTION 1231**

) **TO COMPEL COMPLIANCE OF THE**  
) **CALIFORNIA ENERGY COMMISSION**  
) **TO ENFORCE CONDITIONS OF**  
) **CERTIFICATION IN FINAL ORDER**  
) **FOR 97-AFC-1**

) **DECLARATION OF GARY A LEDFORD**

25 **COMPLAINT**

26 This Complaint is directed to the California Energy Commission [CEC] seeking a remedy  
27 for the Commission's failure to enforce the Commission's own Conditions of Certification which  
28 were approved by the full Commission on May 3, 2000.

Complaint

Specifically, High Desert Power Project (HDPP) was licensed to construct and operate a power plant pursuant to specific conditions. The conditions were designed to protect California's citizens and specifically the environmental health of the High Desert. Water resources, water use, water treatment and water injection conditions were all prescribed in the Commission's Decision and Decision Adoption Order.

Complainant has standing to bring this Complaint as a Real Party in Interest having duly Intervened in the HDPP certification process. Complainant's party status is supported by the record in 97-AFC-1.

In addition, Complainant seeks a complete investigation [under separate application] of whether or not the High Desert Power Project – its officers, agents, consultants and contractors entered false evidence into the record, perjured themselves in testimony on direct and cross-examination, were deceitful as to their true intentions and/or conducted their business with the CEC in Bad Faith.

**A. General Allegations:**

1. Complainant Gary A Ledford herein referred to as ["Ledford"] petitioned the CEC to be a party in intervention and diligently participated in the hearing process relative to water issues. The name, address and phone numbers of Ledford are accurately contained in caption of this complaint.

2. Ledford is informed and believes that the correct address for respondents in this case are as follows:

Bill Chamberlain, Chief Counsel  
California Energy Commission  
1516 Ninth Street,  
Sacramento, California 92814  
bchamber@energy.state.ca.us

High Desert Power Project [HDPP]  
C/O Thomas M Barnett; Vice President and Project Manager  
3501 Jamboree Road  
South Tower, Suite 606  
Newport Beach CA 92660

3. Ledford is informed that HDPP is seeking to make significant changes to the

1 Conditions of Certification as adopted by the Commission. Based on adjudicated testimony and  
2 findings of fact, the Conditions call for a Water Treatment and Injection Train that include Reverse  
3 Osmosis Water Treatment. HDPP is removing the Reverse Osmosis Water Treatment which will  
4 cause **“degradation”** to the water quality in Well Fields owned and controlled by the HDPP, but  
5 under the CEC jurisdiction.

6 4. Ledford is informed and believes and thereon alleges that the Victor Valley  
7 Water District intends to use the HDPP Water Treatment Facilities to inject up to 130,000 acre-feet  
8 of partially treated, but degraded water without an environmental impact analysis required by the  
9 California Environmental Quality Act (CEQA). Victor Valley Water District is attempting to use  
10 the CEC Decision certifying HDPP (a review to consider impacts due to the power plant) equates to  
11 a full CEQA certification for the District’s intended use (water storage and treatment). [Exhibit  
12 “A”]

13 5. Ledford is informed and believes and thereon alleges that HDPP intends file a  
14 new Application for Certification to license and construct a second power project (herein described  
15 as HDPP-2) to stand immediately adjacent to the presently approved project. HDPP2 is estimated to  
16 double the power plant capacity and proposes to use water for cooling.

17 6. Ledford is informed and believes and thereon alleges that the water, sewer, gas  
18 and other utility lines being installed in HDPP were deliberately oversized to provide the necessary  
19 services to HDPP-2.

20 7. Ledford is informed and believes and thereon alleges that officers, agents,  
21 consultants and contractors of HDPP were instructed to lie to the Commission about true scope of  
22 the HDPP. Ledford alleged at the hearings of HDPP that HDPP intended to build facilities on this  
23 site for more than the single use of HDPP. HDPP acted to deceive all of the parties as to the  
24 intended use of water in the cooling of the power plant. HDPP’s actions are in contravention with  
25 CCR – Title 20 – Section 1 which states:

26 Any person who signs a pleading or brief, enters an appearance at a hearing,  
27 or transacts business with the Commission, by such act represents that he or  
28 she is authorized to do so and agrees to comply with the laws of this State; to  
maintain the respect due to the Commission, members of the Commission

and its Administrative Law Judges; **and never to mislead the Commission or its staff by an artifice or false statement of fact or law.**

8. Ledford is informed and believes and thereon alleges that notwithstanding the evidence presented in the record, both HDPP and the Victor Valley Water District [VVWD] intended projects far greater in size than the project described for Commission approval. Unfortunately, the Commission ignored Mr. Ledford's testimony in favor of the evidence presented by HDPP.

9. Ledford is informed and believes the CEC has knowledge of HDPP violations to the conditions as can be seen in a Memo from Lorraine While and Caryn Homes to Steve Munro, dated July 6, 2001, attached as **Exhibit "B"** to a previously filed "Motion to Show Cause". Despite the Commission's mandate to assure compliance, the compliance division has failed issue any corrective notice, sanction or stop work order to correct the violations. Moreover the CEC Compliance division has at least initially supported the degradation of water proposed by HDPP in contravention with approved plant conditions.

10. Ledford requests that the CEC issue appropriate corrective orders that require HDPP's compliance for Soil and Water Conditions; 1,2,3,11,12,17,19;; issue sanctions in an amount that will send a clear message to the power providers and the public at large that violations of the Conditions of Certification will not be tolerated. Furthermore, Ledford should be awarded his costs in having to bring this action.

## **B. FIRST CAUSE OF ACTION**

Ledford re-alleges the general allegations as if set forth in full.

11. High Desert Power Project [HDPP] has CHANGED the method of water treatment approved by the Commission. [**Exhibit "C"**]

12. The treatment approved by the Commission was for Reverse Osmosis Water Treatment [The Water Treatment Train placed in evidence by HDPP as Exhibit 54].

13. The approved condition calls for water treatment to bring the injected water to a quality that meets or exceeds background water quality levels.

14. HDPP selected it's method of treatment and had full and complete knowledge

1 of the costs associated with its use.

2 15. The Reverse Osmosis R/O process allowed the Commission to make “Findings”  
3 of no environmental impact.

4 16. HDPP’s change to the Ultrafiltration process will allow for the  
5 **DEGRADATION** of ground water for the initial storage of 13,000 acre-feet of water destined for  
6 use in HDPP.

7 17. The change in this condition of certification is anticipated to result in a 50%  
8 increase in the TDS [Total Dissolved Solids] in the local ground water region.

9 18. Ledford requests that the CEC issue an order to compel HDPP’s compliance  
10 with the Decision’s Order requiring HDPP to treat the State Project Water to meet or exceed  
11 background water levels using the R/O process. Further, the Commission is requested to issue  
12 sanctions in an amount that will send a clear message to the power providers and the public at large  
13 that violations of Commission Conditions of Certification will not be tolerated and Ledford should  
14 be awarded his costs for bringing this action.

15 **C. SECOND CAUSE OF ACTION**

16 Ledford re-alleges the general allegations as if set forth in full.

17 18. Ledford alleges that the Victor Valley Water District who will be “banking” the  
18 treated SWP water has filed an application with Mojave Water Agency (MWA) for a Storage  
19 Agreement of 70,000 acre-feet per year with a cumulative storage balance of up to 130,000 acre-feet  
20 of water. **[Exhibit “A”]**

21 19. Ledford alleges no CEQA analysis has been considered for this project.

22 20. Ledford alleges the VVWD knew or should have known at the time of  
23 certification that it’s intent was to bank an amount of water far greater than the requirements  
24 proposed in the conditions of approval by HDPP.

25 22. Ledford alleges the cumulative impacts of the proposed degradation is of major  
26 significance and has never been studied or even discussed within the final CEC Decision.

27 23. Ledford requests that the CEC issue an order to compel compliance to treat all of  
28 the State Project Water processed in the HDPP treatment plant to meet or exceed background water

1 levels using the R/O process including water that may be banked for the use of the well fields of  
2 VVWD. Further to issue sanctions in an amount that will send a clear message to the power  
3 providers and the public at large that violations of conditions issued by the CEC will not be  
4 tolerated and Ledford should be awarded his costs for bringing this action.

5 **D. THIRD CAUSE OF ACTION**

6 Ledford re-alleges the general allegations as if set forth in full.

7 24. Ledford alleges the Commission Compliance division has allowed HDPP to  
8 continue construction knowing for several months that HDPP was not in compliance with Condition  
9 Number 11: “The project owner shall submit an approved Waste Discharge Requirement from the  
10 Lahontan RWQCB to the CEC CPM within sixty (60) days of the start of rough grading.

11 25. HDPP does not have an approved Waste Discharge Requirement from  
12 Lahontan.

13 26. Ledford requests that the CEC issue an order stopping construction activities  
14 until HDPP provides an “approved” Waste Discharge Requirement from Lahontan” to treat all of  
15 the State Project Water to meet or exceed background water levels using the R/O process including  
16 water that may be banked for the use in the well fields of the VVWD. Further to issue sanctions of  
17 an amount that will send a clear message to the power providers and the public at large that  
18 violations of conditions issued by the CEC will not be tolerated and Ledford should be awarded his  
19 costs for bringing this action.

20 **E. FOURTH CAUSE OF ACTION**

21 Ledford re-alleges the general allegations as if set forth in full.

22 27. Ledford alleges the CEC “Compliance” division has allowed HDPP to continue  
23 construction although knowing for several months HDPP was not proceeding in compliance with  
24 Condition Number 12: “Treatment of SWP water prior to injection shall be to levels approaching  
25 background water quality levels of the receiving aquifer or shall meet drinking water standards,  
26 **whichever is more protective.**” [E-mail From - Jay Cass to Steve Munro 5/29/01] [Memo: From  
27 Lorraine White and Caryn Homes to Steve Munro – July 6, 2001 – “. . . **water staff does not agree**  
28

1 with the arguments made by the project developer that the proposed water treatment system will  
2 ‘approach’ the water quality levels of the receiving aquifer.”]

3 28. Ledford alleges that HDPP has attempted to obtain unauthorized approval for  
4 a change in the water treatment process through secrete meetings with Lahonton Regional Water  
5 Quality Control Board without first obtaining the approval of the new treatment process from the  
6 CEC and or the MWA.

7 29. Although Ledford was informed by the Commission that he would be kept  
8 fully informed on any issues that related to water, he has yet to receive any correspondence  
9 whatsoever from the CEC relative to the changes in water treatment.

10 29. Ledford requests that the CEC issue an order to stop construction until HDPP  
11 is in compliance with the CEC Order to treat all of the State Project Water to meet or exceed  
12 background water levels using the R/O process including water that may be banked in the VVWD  
13 well fields for the use of the VVWD. Further to issue sanctions of an amount that will send a clear  
14 message to the power providers and the public at large that violations of conditions issued by the  
15 CEC will not be tolerated and Ledford should be awarded his costs for bringing this action.

## 16 **F. FIFTH CAUSE OF ACTION**

17 Ledford re-alleges the general allegations as if set forth in full.

18 30. Ledford alleges the CEC Compliance division has allowed HDPP to continue  
19 construction although knowing for several months HDPP was not in compliance with Condition  
20 Number 17: “The project owner shall enter into an Aquifer Storage and Recovery Agreement with  
21 the Victor Valley Water District” “**Verification:** The project owner shall provide to the CEC CPM  
22 and the CDFG a copy of a signed Aquifer Storage and Recovery Agreement with the terms  
23 described above **prior to commencing construction** of the project.” [Memo: From Lorraine  
24 White and Caryn Homes to Steve Munro – July 6, 2001 – “Since the condition requires the  
25 applicant to submit an ASRA that contained the conditions of S&W 17 prior to initiating  
26 construction, **we find the project to be out of compliance with the conditions.**”

27 31. Ledford alleges that CEC has failed to protect the Public’s interest in insuring  
28 compliance with the conditions by requiring clear and concise compliance with the Commission’s

orders.

32. Ledford requests that the CEC issue an order to stop construction until HDPP is in compliance with the Condition to provide all of the contracts required with all approved exhibits which would include a provision that HDPP will treat all of the State Project Water to meet or exceed background water levels using the R/O process including water that may be banked for the use of the VVWD. Further to issue sanctions of an amount that will send a clear message to the power providers and the public at large that violations of conditions issued by the CEC will not be tolerated and Ledford should be awarded his costs for bringing this action.

**G. SIXTH CAUSE OF ACTION**

Ledford re-alleges the general allegations as if set forth in full.

33. Ledford alleges the CEC Compliance division has allowed HDPP to continue construction although it knew or should have known that HDPP was not in compliance with Condition Number 1: [e] The projects water supply facilities shall be appropriately sized to meet project needs.

34. Ledford alleges the CEC knew or it should have known based on the evidence in the record submitted by both CEC staff and Ledford that HDPP was building “water supply facilities” that were far larger than that required for the needs of HDPP.

35. Ledford requests that the CEC issue an absolute order to restrict the use of the pipelines presently under construction or to be constructed to provide service only to the Power Project and no other use. Further to issue sanctions of an amount that will send a clear message to the power providers and the public at large that violations of conditions issued by the CEC will not be tolerated and Ledford should be awarded his costs for bringing this action.

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## **CONCLUSION**

Ledford's Complaint is a matter insuring the Public's Trust<sup>1</sup>. If the Public is to be assured that the Conditions of Certification are the Rules under which this or any other Power Plant is to be required to comply then they must be adhered to. The Commission Compliance division is ignoring the Conditions established. Ledford requests the Commission adopt following Order:

- 1.** HDPP shall use the Reverse Osmosis process for the treatment of injected water to meet or exceed background water quality levels to fully comply with this and all other Soil and Water Conditions;
- 2.** Unless and until this Commission approves a change in the treatment process, Lahontan RWQCB may not issue a waiver to the Commission-approved process of water treatment and non-degradation of the High Desert Aquifer Water;
- 3.** The Commission will Clarify that the Mojave Water Agency may not use the Commission Decision as a CEQA equivalent Document for a Water Storage Agreement where MWA is fully aware that HDPP and VVWD will be treating and banking water far in excess of the uses contemplated by the CEC Decision;
- 4.** The Commission will Clarify it's Decision by recommending that the Mojave Water Agency shall not use the Decision as a CEQA equivalent Document for a Water Supply agreement where the uses shown in the application for supply are clearly not a part of the HDPP as proposed and analyzed in the Decision.
- 5.** The Commission shall direct the Compliance Officer to issue a Stop Work Order on the portion of the Plant that is considered the Water Treatment Plant until plans are submitted that fully comply with this order.
- 6.** The Commission shall direct the Compliance Officer to issue a Stop Work Order on the portion of the Plant that is considered the Water Treatment Plant until compliance with Condition Number 11 has been fully satisfied.
- 7.** The Commission shall direct the Compliance Officer to issue a Stop Work Order on the portion of the Plant that is considered the Water Treatment Plant until compliance with Condition Number 12 has been fully satisfied.
- 8.** The Commission shall not accept or process an Application for Certification for a second Power Plant for HDPP during any period of time that HDPP is out of compliance with

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<sup>1</sup> Mr. Ledford: "But again my point is . . . the Energy Commission going to shut this plant down?  
Ms Bond: "That's what the conditions of certification require, correct"  
Mr. O'Hagen: ". . .As a staff of the Commission, if these conditions are, in fact, adopted by the Commission, I would hope that we would enforce that."

any Conditions of Certification in the HDPP Decision.

**9.** For other further and appropriate relief, which the Commission deems to be just, and proper.

**10.** Grant Ledford recovery costs in bringing this action.

Respectfully Submitted:

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Gary A. Ledford  
Real Party In Interest  
Complainant  
In Pro Per

## DECLARATION OF GARY A LEDFORD

I, Gary A Ledford, declare:

1. I am the Complainant in this Action.
2. I attended each and every day of the hearings in this case leading to the certification of the High Desert Power Project.
3. I raised the issues that the utilities were oversized for the intended use of a single power project.
4. I raised the issue that other agencies would attempt to use the CEC certified documents as CEQA equivalent for approving project to use such parts of the "Project" such as the 24" water line.
5. I advised the Commission that the HDPP and others had the intent to use the Water Treatment Facilities for other projects other than the needs to generate electricity by HDPP..
6. The Commission appeared to agree that there were perhaps other projects, but they were limited on what they could review. Nevertheless, the Commission attempted to place conditions on HDPP to address the conditions that I raised.
7. Based on the evidence in the record, the testimony of experts and officers of HDPP, I believed that given the restrictive nature of the conditions would prevent any environmental impact associated with providing HDPP with water, provided the exact conditions were adhered to including shutting the plant down if there was no SWP Water Available.
8. HDPP has acted to change the Water Treatment Train from the submitted and approved plan;
9. The change will allow for the degradation of water in the basin.
10. HDPP did not submit their change to me nor seek Commission approval for the change. As a result, no degradation studies (either for HDPP or VVWD) have been conducted.
11. The CEC has failed to keep its promise to keep informed of any changes in the Water portion of the this project.
12. After careful review of the HDPP record, the sworn testimony by Applicant, its consultants, officers and engineers, I now believe and allege the record reflects that the Applicant, its consultants, officers and engineers committed perjury. Clearly, at the time sworn statements were made (in order to get the project certified) each of them knew or should have known, they

1 would be attempting to get changes or waivers to the Water Treatment Train.

2 I declare under penalty of perjury under the laws of the state of California that the foregoing is  
3 true and correct and that this declaration was executed on October \_\_\_\_\_ 2001, in Apple Valley,  
4 California.

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Gary A Ledford

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**PROOF OF SERVICE**

I Barbara Biastianon declare that on \_\_\_\_\_, I deposited copies of the attached COMPLAINT, in the United States mail in Apple Valley California with first class postage thereon fully prepaid and addressed to the following:

Signed original document plus 11 copies to the following address:

California Energy Commission  
Docket Unit  
1516 Ninth Street, MS 4  
Sacramento, CA 95814

In addition to the documents sent to the Commission Docket Unit, individual copies of all documents were sent to:

General Counsel  
California Energy Commission  
1516 Ninth Street, MS 4  
Sacramento, CA 95814

\_\_\_\_\_  
Barbara Biastianon